

FILED
DISTRICT CLERK OF
JEFFERSON CO TEXAS
7/25/2019 5:30 PM
JAMIE SMITH
DISTRICT CLERK
B-204183

NO. _____

ARTURO ELIZONDO, JR.
Plaintiff,

V.

ADHAN ABBIKADIR, AND MBA
TRANSPORT OF COLUMBUS, LLC
Defendants.

§ IN THE DISTRICT COURT
§
§
§ _____ JUDICIAL DISTRICT
§
§
§
§ OF JEFFERSON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Arturo Elizondo, Jr., hereinafter called Plaintiff, complaining of and about Adhan Abbikadir, and MBA Transport of Columbus, LLC, hereinafter called Defendants, and for cause of action shows unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 2.

PARTIES AND SERVICE

2. Plaintiff, Arturo Elizondo, Jr., is an Individual whose address is 11511 Willwood Dr., Houston, Texas 77072.

3. The last three numbers of Arturo Elizondo, Jr.'s driver's license number are 356. The last three numbers of Arturo Elizondo, Jr.'s social security number are 186.

4. Defendant Adhan Abbikadir, an Individual who is a nonresident of Texas, may be served with process at his home at the following address: 816 Ridge Creek Dr., Clarkston, GA 30021. Service of said Defendant as described above can be effected by certified mail, return receipt requested.

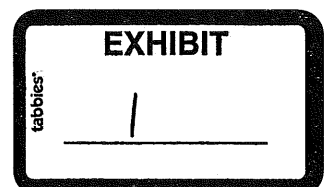


I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

September 26, 2019

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith
Page 1 of 7



5. Defendant MBA Transport of Columbus, LLC, a Nonresident Corporation, has failed to appoint or does not maintain a registered agent in Texas. Pursuant to section 5.251(1)(A) of the Texas Business Organizations Code, service may be effected upon Defendant MBA Transport of Columbus, LLC by serving the Secretary of State of Texas, Statutory Documents Section, Citations Unit, P.O. Box 12079, Austin, Texas 78711-2079.

JURISDICTION AND VENUE

6. The subject matter in controversy is within the jurisdictional limits of this court.

7. Plaintiff seeks:

a. monetary relief over \$200,000 but not more than \$1,000,000.

8. This court has jurisdiction over Defendant Adhan Abbikadir, because said Defendant purposefully availed himself of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over Adhan Abbikadir will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

9. Plaintiff would show that Defendant Adhan Abbikadir had continuous and systematic contacts with the state of Texas sufficient to establish general jurisdiction over said Defendant.

10. Furthermore, Plaintiff would show that Defendant Adhan Abbikadir engaged in activities constituting business in the state of Texas as provided by Section 17.042 of the Texas Civil Practice and Remedies Code, in that said Defendant committed a tort in whole or in part in Texas.

11. This court has jurisdiction over Defendant MBA Transport of Columbus, LLC, because said Defendant purposefully availed itself of the privilege of conducting activities in the



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

September 26, 2019

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 2 of 7

state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over MBA Transport of Columbus, LLC will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

12. Plaintiff would show that Defendant MBA Transport of Columbus, LLC had continuous and systematic contacts with the state of Texas sufficient to establish general jurisdiction over said Defendant.

13. Plaintiff would also show that the cause of action arose from or relates to the contacts of Defendant MBA Transport of Columbus, LLC to the state of Texas, thereby conferring specific jurisdiction with respect to said Defendant.

14. Furthermore, Plaintiff would show that Defendant MBA Transport of Columbus, LLC engaged in activities constituting business in the state of Texas as provided by Section 17.042 of the Texas Civil Practice and Remedies Code, in that said Defendant committed a tort in whole or in part in Texas.

15. Venue in Jefferson County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

16. On or about July 26, 2017 Defendant Adhan Abbikadir while acting in the scope of his employment as a driver for MBA Transport of Columbus, LLC failed to control his speed and collided with the back of the vehicle Plaintiff Arturo Elizondo was operating. The collision occurred while Defendant Adhan Abbikadir was driving west bound around mile marker 841 on Interstate Highway 10 in Jefferson County, Texas.



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

September 26, 2019

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 3 of 7

17. The vehicle Plaintiff Arturo Elizonodo was operating was forced to the right shoulder after being struck by Defendant Adhan Abbikadir.

**PLAINTIFF'S CLAIM OF
NEGLIGENCE AGAINST ADHAN ABBIKADIR**

18. Defendant Adhan Abbikadir had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

19. Plaintiff's injuries were proximately caused by Defendant Adhan Abbikadir's negligent, careless and reckless disregard of said duty.

20. The negligent, careless and reckless disregard of duty of Defendant Adhan Abbikadir consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant Adhan Abbikadir failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant Adhan Abbikadir failed to turn his motor vehicle to the left in an effort to avoid the collision complained of;
- C. In that Defendant Adhan Abbikadir failed to maintain a clear and reasonable distance between Plaintiff's motor vehicle and Defendant Adhan Abbikadir's motor vehicle which would permit Defendant Adhan Abbikadir to bring his motor vehicle to a safe stop without colliding into Plaintiff's motor vehicle;
- D. In that Defendant Adhan Abbikadir failed to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done;
- E. In that Defendant Adhan Abbikadir was operating his motor vehicle at a rate of speed which was greater than that would have been operated by a person of ordinary prudence under the same or similar circumstances; and
- F. In that Defendant Adhan Abbikadir failed to apply his brakes to his motor vehicle in a timely and prudent manner and/or wholly failed to apply his brakes in order to avoid the collision in question.



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

September 26, 2019

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 4 of 7

**PLAINTIFF'S CLAIM OF
RESPONDEAT SUPERIOR AGAINST MBA TRANSPORT OF COLUMBUS, LLC**

21. At the time of the occurrence of the act in question and immediately prior thereto, Adhan Abbikadir was within the course and scope of employment for Defendant MBA Transport of Columbus, LLC.

22. At the time of the occurrence of the act in question and immediately prior thereto, Adhan Abbikadir was engaged in the furtherance of Defendant MBA Transport of Columbus, LLC's business.

23. At the time of the occurrence of the act in question and immediately prior thereto, Adhan Abbikadir was engaged in accomplishing a task for which Adhan Abbikadir was employed.

24. Plaintiff invokes the doctrine of Respondeat Superior as against Defendant MBA Transport of Columbus, LLC.

**PLAINTIFF'S CLAIM OF
NEGLIGENT ENTRUSTMENT AGAINST MBA TRANSPORT OF COLUMBUS, LLC**

25. On July 26, 2017, Defendant MBA Transport of Columbus, LLC was the owner of the vehicle operated by Adhan Abbikadir.

26. Defendant MBA Transport of Columbus, LLC entrusted the vehicle to Adhan Abbikadir, a reckless driver.

27. Defendant MBA Transport of Columbus, LLC knew, or through the exercise of reasonable care should have known, that Adhan Abbikadir was a reckless driver.

28. As described herein, Adhan Abbikadir was negligent on the occasion in question.

29. Adhan Abbikadir's negligence was the proximate cause of Plaintiff's damages.

DAMAGES FOR PLAINTIFF, ARTURO ELIZONDO, JR.

30. As a direct and proximate result of the occurrence made the basis of this lawsuit,



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

September 26, 2019

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 5 of 7

Plaintiff, Arturo Elizondo, Jr. was caused to suffer pain, and the permanent and irreparable loss of the use of a limb, and to incur the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, Arturo Elizondo, Jr. for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Harris County, Texas;
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future;
- G. Loss of earnings in the past;
- H. Loss of earning capacity which will, in all probability, be incurred in the future;
- I. Loss of Consortium in the past, including damages to the family relationship, loss of care, comfort, solace, companionship, protection, services, and/or physical relations;
- J. Loss of Consortium in the future including damages to the family relationship, loss of care, comfort, solace, companionship, protection, services, and/or physical relations;
- K. Loss of Body Member;
- L. Disfigurement in the past;
- M. Disfigurement in the future;
- N. Mental anguish in the past;
- O. Mental anguish in the future; and
- P. Cost of medical monitoring and prevention in the future.



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

September 26, 2019

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 6 of 7

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Arturo Elizondo, Jr., respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

Gallagher Law, PLLC

By: /s/ Matthew Gallagher
Matthew Gallagher
Texas Bar No. 24068538
Email: matthew@mgg-law.com
917 Franklin St., Fourth Floor
Houston, TX 77002
Tel. (713) 807-8000
Fax. (713) 807-8008
Attorney for Plaintiff
Arturo Elizondo, Jr.

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

September 26, 2019

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith Page 7 of 7



I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office

September 26, 2019

JAMIE SMITH, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

Jamie Smith

Certified Document Number: 2096844 Total Pages: 7

In accordance with Texas Government Code 51.301 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail districtclerk@co.jefferson.tx.us